



Save the Sound[®]

Action for our region's environment.

**Testimony of Save the Sound
Before the Environment Committee**

In support of House Bill No. 5297

**AN ACT CONCERNING THE MULTIPLICITY OF AFFECTING FACILITIES IN
CERTAIN CENSUS BLOCK GROUPS IN THE STATE**

**Submitted by Christopher P. Kelly, Esq.
March 14, 2022**

Save the Sound is a nonprofit organization representing over 4,200 member households and 10,000 activists statewide. Our mission is to protect and improve the land, air, and water of Connecticut and the entire Long Island Sound region. We use legal and scientific expertise and bring citizens together to achieve results that benefit our environment for current and future generations.

Dear Co-Chairs Cohen and Gresko, Vice-Chairs Slap and Palm, Ranking Members Miner and Harding, and members of the Environment Committee:

Save the Sound supports passage of HB 5297, an act which would compel the Commissioner of Energy and Environmental Protection, in consultation with the Connecticut Equity and Environmental Justice Advisory Council, to produce recommendations to strengthen and amend section 22a-20a of the general statutes. This section, known as Connecticut's Environmental Justice Law, creates a public notice and participation process when DEEP or the Siting Council issue permits for certain polluting facilities in certain economically-distressed communities.

In the decade and a half since the EJ law originally passed, DEEP has developed a strong public participation program that encourages communication between "affecting facilities" and "environmental justice communities." Despite these efforts, affecting facilities are still highly concentrated in certain communities in both urban and rural parts of the state, which continue to disproportionately suffer environmental burdens, leading to alarming rates of health conditions, like asthma, and economic depression. The communities hosting these affecting facilities may not even be serviced by those same facilities, assuming the polluting impacts on behalf of surrounding towns and neighborhoods.

Legislators and environmental advocates have repeatedly worked to strengthen the EJ law in an effort to alleviate those disproportionate burdens imposed upon Connecticut's most vulnerable communities. Yet, the law lacks any legal authority for DEEP or the Siting Council to consider – and act upon – the existing cumulative pollution in a community and the disproportionate impact that granting a permit might inflict. In 2020, New Jersey addressed this problem and passed a bill which is considered to be the gold standard of environmental justice laws. New Jersey's law requires mandatory permit denials if an environmental justice analysis determines a new facility will have a disproportionately negative impact on overburdened communities.

Save the Sound has proposed amendatory language to adopt a similar requirement in Connecticut. A study providing recommendations to strengthen the EJ law should likewise recognize that DEEP and the Siting Council need to be empowered to prevent additional polluting facilities in the most-polluted communities. There is no reason why Connecticut cannot and should not adopt this authority as well, and it is important that we do so through a public process with the input of residents of environmental justice communities.

The study can also address the following issues:

- Permit Renewals and Modifications – Currently, the EJ law addresses only new or expanded permits, but does not consider renewals of permits for which conditions have changed, nor modifications of issued permits.
- Definition of Environmental Justice Community – By defining environmental justice communities entirely by economic standards, the statute fails to reach communities particularly disadvantaged by other factors, such as linguistic barriers. Additionally, the mechanics of the distressed municipalities list causes some communities to lose their protections under the EJ law, even if there has been no actual economic improvement.
- Other Affected Communities – The EJ law applies when a facility is sited within a designated environmental justice community, but regardless of the facility's location it should protect any other communities which are reasonably likely to be harmed by virtue of being downstream, downwind, or directly adjacent to the facility.
- Affecting Facilities – The EJ law currently applies to a narrow list of facilities and should be amended to add or clarify the inclusion of other facility types.

Thank you for the opportunity to provide the above testimony and for your time and consideration of these matters.

Respectfully submitted,

/s/ Christopher P. Kelly

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